



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	
	)	
Balmer et al.	)	Examiner: Lam, Cathy Fong Fong
	)	
Serial No.: 09/977,175	)	Art Unit: 1775
	)	
Filed: October 12, 2001	)	Confirmation No.: 2853
	)	
For: THREE DIMENSIONAL WELDING ROD	)	Docket No.: 0111
AND SURFACE COVERING	)	

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
**JAN 02 2004**  
**TC 1700**

**DECLARATION UNDER 37 C.F.R. § 1.132  
OF RICHARD H. BALMER**

1. I, Richard H. Balmer, am a citizen of the United States of America, and my residence and post office address is 49 N. Fulton Street, Manheim, Pennsylvania 17545.
2. I received my B.A. in Biology in 1976 from Millersville University, Millersville, PA 17551.
3. I received my B.A. in Chemistry in 1981 from Millersville University, Millersville, PA 17551.
4. I was employed by Armstrong World Industries, Inc., Lancaster, PA from 1977 to 1984 as a Technician and Chemist in the Lancaster Floor Plant; from 1984 to 1986 as a Plant Chemist in the Thomasville, Appomattox, VA, wood furniture plant; and from 1986 to the present as a Research Chemist, Research Scientist and Sr. Research Scientist in Floor Products Research at Lancaster, PA, on projects involving process improvement, new product development and cost reduction of commercial sheet and commercial tile products.

5. I am an applicant in the above-identified patent application and a co-inventor of the subject matter claimed in this application.

6. I am familiar with Drout et al. U.S. Patent No. 5,084,501 and Lussi et al. U.S. Patent No. 5,290,591, cited by the Examiner.

7. The invention claimed in this application relates, at least, to a sheet, a welding rod and a seamed surface covering, wherein the welding rod comprises a first layer of pigmented particles and a second layer transparent or translucent particles, with the particles of the second layer adjacent the exposed surface being substantially all transparent or translucent particles.

8. The highly filled resin composition of Drout et al. cannot be used to form a welding rod. The 60% to 95% filled resin composition does not have sufficient resin to yield the necessary strength to bond two surface covering sheets together.

9. PVC resins that have not been subjected to heat and pressure are opaque. The dispersion grade resin particles of the Drout et al. are not subjected to heat and pressure prior to mixing with the filler. The Drout et al. composition, in which the dispersion grade resin is adhered to the filler particles, is consolidated by being subjected to heat and pressure, but only after the resin and filler are mixed. Therefore, flooring made from the Drout et al. composition is not formed from material comprising transparent or translucent particles. The transparent particles of the present invention are subjected to heat and pressure in forming the particles and therefore the second layer of the present invention is formed from material comprising transparent or translucent particles.

10. The object of the prior art described at column 3, lines 30 to 39, of Drout et al. was to obtain a uniform distribution of resin and filler particles. While “the heavier filler particles would tend to settle to the bottom of the composition” (emphasis supplied), the prior art, to avoid settling of the filler, would blend the filler into the mixture shortly prior to consolidation, i.e. subjecting the mixture to heat and pressure. Further, the resin particles of the prior art would not have been consolidated prior to mixing with the filler particles. Therefore, even if the filler particles of the prior art did settle, the structure of the present invention would not have resulted. The particles adjacent the surface would not have been transparent.

11. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

12/15/2003  
Date

Respectfully submitted,

Richard H. Balmer  
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